

Tapes Show Nixon Role in



RICHARD M. NIXON

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A. ERNEST FITZGERALD

Firing of Ernest Fitzgerald

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Newly disclosed transcripts of White House tape recordings show that former president Richard Nixon personally ordered the 1970 firing of A. Ernest Fitzgerald, the Pentagon financial analyst who exposed the \$2 billion cost overrun in the production of the C5A cargo plane.

"This guy that was fired," Nixon remarked in a Jan. 31, 1973, conversation with presidential aide Charles W. Colson, "I'd marked it in the news summary. That's how that happened. I said get rid of that son of a bitch."

In another conversation the same day, Nixon told presidential aide John D. Ehrlichman, "Yeah, well, the

point was not that he was complaining about the overruns, but that he was doing it in public."

"That's the point," Ehrlichman replied, "and cutting up his superiors."

"That's right," Nixon agreed. "And not, and frankly, not taking orders."

Until U.S. District Court Judge Gerhard A. Gesell unsealed transcripts of the White House conversations about the Fitzgerald case this week, public knowledge of Nixon's role in the firing had been confused. Justice Department lawyers still contend that the new tape disclosures do not show

that Nixon ordered Fitzgerald's ouster.

Hours before Nixon made his comments to Colson and Ehrlichman, he had conceded at a press conference that he had ordered Fitzgerald fired. But the next day, Ronald Ziegler, Nixon's press secretary, told reporters that the president had "misspoken" and had confused Fitzgerald with some other, unnamed person.

The new tapes show, however, that Nixon largely was concerned about supporting a claim of executive privilege invoked by former Air Force Secretary Robert C. Seamans Jr. in refusing to discuss the Fitzgerald case.

"OK, it's OK, we're coverin' his

tracks," Ehrlichman told Nixon. "On, Seamans was wrong, he had no right to invoke it, but you backed him up and we can put it, we can put it together in such a way that everything's OK, and uh, don't worry about it."

Nixon ordered Ehrlichman to "have the most godawful gobbledygook answer [about executive privilege] prepared . . . something that will allow us to do everything that we want."

The next day, Ziegler told reporters that Nixon had misspoken in remarks about Fitzgerald. According to the transcripts, the press secretary told the president that he would give reporter Clark Mollenhoff, who previously had supported Fitzgerald while working as a Nixon White House aide, the executive privilege statement on Feb. 2, 1973.

"Good, good, good. Fine, fine," Nixon told Ziegler.

The new transcripts were revealed as part of Fitzgerald's effort to win \$3.5 million in compensatory and punitive damages for the firing against Nixon and three of his former aides,

H.R. Haldeman, Alexander P. Butterfield, who would later reveal the existence of the White House taping system, and Bryce N. Harlow.

After testifying before a congressional subcommittee about the C5A cost overruns, Fitzgerald, a civilian Air Force employee, was dismissed in January 1970, in what the Pentagon said was a reduction in force that had nothing to do with the C5A disclosures.

After nearly a four-year fight, Fitzgerald won a Civil Service Commission ruling in late 1973 reinstating him to his GS-17-level Pentagon job with back pay of about \$80,000.

Fitzgerald, now 52, works as the "deputy for productivity management to the principal deputy assistant secretary of the Air Force" and is paid \$47,500 a year.

But in an interview yesterday he said the new job is in no way equivalent to the job he held at the time of his C5A disclosures.

"I'm completely excluded from the big weapons systems jobs," Fitzgerald said. "They keep me out of Boeing's and Lockheed's hair and all the big ones."

Instead, Fitzgerald said he investigates financial operations at Air Force maintenance depots. He said he has had conversations with Carter administration officials about finding a better job in the government and that nine senators recently wrote Vice President Mondale in his support. But Fitzgerald said no new job offers have been forthcoming.

The Justice Department is representing Nixon and his three aides in the Fitzgerald case because they are former federal officials. Justice attorney Mark Landman told Gesell on Monday that Nixon should be excluded from the case on grounds that a president has "absolute immunity" from being sued and that, in any event, the statute of limitations ran out before Nixon was added last summer as a defendant in the 5-year-old suit.

In addition, Gesell raised the possibility that President Ford's pardon of Nixon for actions he took while president might clear him from any responsibility in the Fitzgerald case. Gesell told lawyers in the case to file legal briefs on these issues later this month.